

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JUSTYN WILSON,	§
	§
Defendant Below-	§ No. 185, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0911019557
Plaintiff Below-	§
Appellee.	§

Submitted: May 4, 2011
Decided: May 16, 2011

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 16th day of May 2011, it appears to the Court that:

(1) On April 15, 2011, the Court received appellant's notice of appeal from a Superior Court order, docketed March 14, 2011, which denied his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before April 13, 2011.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.¹ Appellant filed a response to the notice to show cause on May 4, 2011. He asserts that his appeal should not be deemed late because he placed his

¹Del. Supr. Ct. R. 6(a)(ii).

notice of appeal in the prison mail on April 12, 2011 and, thus, the Court should have received it in time.

(3) Time is a jurisdictional requirement.² A notice of appeal *must* be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.³ A document is not deemed filed until the Clerk receives it. An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁵

(4) In this case, there is nothing to suggest that the delay in filing the notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

²*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

³Del. Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

⁵*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).